v. Townsend, 57 Cal. 515. The legislature may regulate procedure. *In re Probate Blanks*, 71 N. H. 621. A legislature may pass laws affecting powers lodged in the several justices of a supreme court, as distinguished from the court itself. *State v. Taylor*, 68 N. J. L. 276. A court may make reasonable rules in regard to fixing a time for a hearing before it, and such rules must prevail, even though in conflict with a statute. *Herndon v. Imperial Fire Ins. Co.*, 111 N. C. 384. A court may not make a rule which deprives one of a right secured by law. *Main v. Lynch*, 54 Md. 658. A court has power to change its own calendar and to fix dates of trials. *Merchants' Nat. Bank v. Greenhood*, 16 Mont. 395. As the statute in question would give the court no discretion in fixing a time for hearing of preferred causes, the decision would seem to be proper. *Jones v. Spear*, 21 Vt. 426.

CONSTITUTIONAL LAW—NOTICE OF TAX SALE—DENIAL OF DUE PROCESS.—WILLIAMS V. PITLOCK, 77 PAC. 385 (WASH.).—*Held*, that a statute which, without providing for notice, makes persons not known to have an interest in property assessed parties to proceedings to collect unpaid taxes by sale of the land, does not deprive a non-resident owner, whose land was assessed to one not an owner, of due process of law.

The name of the owner of real property, when known and entered on the assessment roll, is a material part of a notice of the sale thereof for taxes; *Marx v. Hanthorn*, 30 Fed. 579; and a statute making the tax deed conclusive evidence of notice is unconstitutional, as a denial of due process of law. *Kelly v. Herrall*, 20 Fed. 364; *McCready v. Sexton*, 29 Iowa 356. One who purchases land subject to a tax lien is entitled to notice of a tax sale of the same. *Quinlan v. Callahan*, 81 Ky. 618. A tax sale of land owned by several heirs upon notice to one is invalid; *Thurston v. Miller*, 10 R. I. 358; nor is notice to one of several co-tenants sufficient. *Howze v. Dew*, 90 Ala. 178. In *Lague v. Boagni*. 32 La. Ann. 912, it is held, contrary to the present case, that notice to the real owner is always essential. But the general rule seems to be otherwise. *Franklin Coal Co. v. Bertel*, 109 Pa. 550; *Sperry v. Goodwin*, 44 Minn. 207.

CONSTITUTIONAL LAW—POLICE POWER—POSSESSION OF IMPORTED GAME IN CLOSE SEASON.—PEOPLE V. BOOTMAN ET AL., 72 N. E. 505 (N. Y.).—*Held*, that it is in the police power of a state to make the possession of imported game in the close season unlawful.

The original statutes of New York State, prohibiting the sale, possession, etc., of game in the close season. were not construed to include imported game because they did not expressly do so. Similar statutes have been so construed in other states. *Com. v. Hall*, 128 Mass. 410; *Com. v. Wilkenson*, 139 Pa. St. 298. Other courts hold the contrary. *State v. Randolph*, 1 Mo. App. 15; *Roth v. State*, 51 Ohio St. 209. In other states possession of game is *prima facie* evidence of its importation, subject to be rebutted. *People v. O'Neill*, 71 Mich. 325; *Com. v. Wilkenson*, *supra*. Though killed at a time and place lawful, it is a violation, if possessed in the close season. *State v. Rodman*, 58 Minn. 393; *State v. Judy*, 7 Mo. App. 524. The laws so interpreted are not unconstitutional and are not are an interference with interstate commerce. *Phelps v. Racey*, 5 Daley 235; *McReady v. Va.*, 94 U. S. 391. A state cannot prohibit the importation of lawful merchandise into its limits but after the act of transportation has terminated the possession

of the article may be declared unlawful. *Bowman v. Chi. etc., R. R. Co.*, 125 U. S. 465. This may discourage interstate commerce but it is not such regulation as is unconstitutional. *Magner v. People*, 97 Ill. 320.

CRIMINAL LAW — SUFFICIENCY OF INDICTMENT — REVIEW. — PEOPLE V. WIECHERS ET AL., 72 N. E. 501 (N. Y.).—*Held*, that an indictment, not objected to at the trial, nor demurred to before trial, nor objected to by motion in arrest of judgment, could not be attacked by appeal to the Court of Appeals, the offense not being a capital one, though it does not charge any criminal offense. Cullen, C. J., and O'Brien, J., *dissenting*.

Under the N. Y. Code of Criminal Procedure demurrer lies to an indictment when the facts do not constitute a crime. *People v. D'Argencour*, 32 Hun. 175; *People v. Kane*, 43 App. Div. 472. Objection may be taken at the trial under plea of not guilty or in arrest of judgment. *People v. Davis*, 56 N. Y. 95; *People v. Upton*, 38 Hun 107. Plea of not guilty is a denial of every material allegation in the indictment. *People v. Benjamin*, 2 Park. Cr. 201. The fundamental defects appearing on the face of the record may be reviewed and corrected on appeal. The bill of exceptions enlarges the scope of review, but does not exclude other grounds. *People v. Thompson*, 41 N. Y. 1. The defect is not cured by the verdict. *People v. Davis*, 4 Park. Cr. 67. Appeal, like writ of error, brings up all questions of error in the indictment, verdict, or any part of the record. *State v. Dark*, 8 Blackf. 526; *Com. v. Thompson*, 13 B. Mon 159. If there was no crime charged the verdict of guilty could not be broader than the charge, and consequently there is nothing to support the judgment. If the judgment is void a writ of *habeas corpus* would lie. *U. S. v. Patterson*, 29 Fed. 775; *In re Garvey*, 7 Colo. 384; *Ex parte Reynolds*, 35 Tex. Cr. R. 437.

EASEMENTS—DRAINAGE—SURFACE WATERS.—DAVIS V. FRY, 78 PAC. 180 (OKL.).—When surface waters by natural drainage collect in a natural basin or depression upon the premises of a dominant tenement, and escape therefrom only by percolation or evaporation, forming thereby a lake or pond, permanent in its character, *held*, that the waters so collected lose the character of surface water, and may not, by artificial means, other than those incident to the cultivation of the soil, be drained to the damage of a servient tenement without liability in damages for such act.

When the situation of two adjoining fields is such that the water falling, or collected by melting snow, and the like, upon one, naturally descends upon the other, the owner of the lower must suffer that it be so discharged if desired by the upper owner, but the latter cannot by artificial trenches cause the natural mode of its being discharged to be changed to the injury of the lower field. *Washburn, Easements*, 353. Most of the decisions in various states are unanimous in the opinion that the owner of the upper heritage may improve his lands by mining or agricultural operations, although thereby the volume of water discharged upon the inferior land is increased, but that he is liable for damage caused by his digging ditches for purposes of draining. *Kauffman v. Griesemer*, 26 Pa. St. 407; *Hogenson v. Railway Co.*, 31 Minn. 224. In *Hughes v. Anderson*, 68 Ala. 280, it was held that the extent to which a proprietor may go in this way must be determined by the degree of comparative injury it may produce and relieve. A still more liberal decision was rendered in *Sheehan v. Flynn*, 59 Minn. 436, making simple drainage the